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Of Attorneys for Amicus AMA Coalition for Justice and Police Reform

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA

Case No. 3:12-cv-02265-SI

Plaintiff,

v.

**JULY 2017 STATUS REPORT OF THE
ALBINA MINISTERIAL ALLIANCE
FOR JUSTICE AND POLICE REFORM**

CITY OF PORTLAND

Defendant.

The Albina Ministerial Alliance Coalition for Justice and Police Reform (“AMA Coalition”) hereby submits its status report in response to the Court’s order dated July 7, 2017, Dkt. 152, regarding (1) what steps have been taken since the Second Annual Status Conference

to bring the City of Portland into compliance with the Settlement Agreement, and (2) the parties' best estimate of when they expect the Ninth Circuit will rule on the City of Portland's pending petition for a Writ of Mandamus.

I. Steps Taken Since the Second Annual Status Conference to Bring the City into Compliance with the Settlement Agreement

The Second Annual Status Conference was held on October 25, 2016. Shortly thereafter, the City of Portland ("City") filed a writ of mandamus, challenging this Court's authority to hold status conferences, and seeking to reassign this case to a different judge. The AMA Coalition strongly opposes this writ and filed a brief in the Ninth Circuit stating its position. *See* Attachment 1.

As this Court is aware, the United States Department of Justice ("DOJ") has found the City in non-compliance with the Settlement Agreement in the area of community oversight. As such, the AMA Coalition focuses much of this status report on this issue.

The Collaborative Agreement between the AMA Coalition, the DOJ and the City, Dkt. 55, states, "the AMA Coalition agrees to advocate for the implementation of the Settlement Agreement reforms that the AMA Coalition supports. The AMA further agrees to oppose any attempts to weaken or dilute the Settlement Agreement reforms that the AMA Coalition supports." *Id.* at ¶ 8. At the 2016 status conference, the AMA Coalition reported that it had provided feedback over the prior year in the following areas: community engagement, specifically regarding the structure and role of the Community Oversight Advisory Board ("COAB") and Compliance Officer/Community Liaison ("COCL"); removal of the 48-hour rule and other improvements to the police collective bargaining agreement; changes to the Independent Police Review ("IPR") and the Citizen Review Committee ("CRC"); training; and use of force. At the 2016 status conference, the AMA Coalition also expressed grave concerns

about the implementation of the community oversight component of the Settlement Agreement, noting the history of the Community Oversight Advisory Board (“COAB”), concerns that the COAB had been placed in a “recess,” at the City’s request, and concerns that further delay would harm public perception and participation in oversight and accountability. As reported at the time of the 2016 conference, the AMA Coalition had already engaged in numerous meetings with the City and DOJ regarding the selection of new members to the COAB, urged the City to fill vacancies, and made several specific recommendations to the City and DOJ regarding COAB structure and direction. See Dkt. 126. At the time of the 2016 status conference, the then-remaining COAB members had proposed an independent court monitor, and the AMA Coalition’s sole objection to that proposal was concern that an independent monitor might eliminate community involvement in the oversight process. The AMA Coalition’s position is based on its belief that those impacted by the Settlement Agreement – the community policed by the PPB – must play a role in its oversight and implementation.

Since the 2016 status conference, as described by the City in its supplemental memorandum filed by this court on December 2, 2016, Dkt. 141, the AMA Coalition has continued to meet with the City, the Portland Police Association (“PPA”), and DOJ to advocate for the prioritizing of community oversight over implementation of the Settlement Agreement. The City stopped meeting with the AMA Coalition and the PPA in November and December 2016, while they procured a facilitator. Although the content of those negotiations and the Ninth Circuit mediation sessions are subject to confidentiality, the AMA Coalition offers the following nonconfidential timeline of key events since the 2016 Status Conference:

November 8, 2016: AMA Coalition & PPA meet to discuss logistics of new COAB.

November 14, 2016: COAB issues letter to Mayor Hales and Chief Marshman seeking a response to their recommendations for police reform.

November 16, 2016: AMA Coalition & PPA meet to discuss logistics of new COAB.

November 17, 2016: AMA Coalition & PPA reach out to the City to invite them to continue meeting regarding the COAB while the facilitator procurement is in process.

December 9, 2016: City files petition for writ of mandamus in this case with the Ninth Circuit.

December 28, 2016: AMA Coalition & PPA meet to discuss logistics of new COAB.

January 9, 2017: AMA Coalition & PPA present a detailed joint proposal for a new COAB to the City and DOJ.

January 13, 2017: AMA Coalition, City, DOJ, & PPA meet with City's hired facilitator to discuss logistics of new COAB.

January 26, 2017: AMA Coalition, City, DOJ, & PPA meet with City's hired facilitator to discuss logistics of new COAB.

January 28, 2017: AMA Coalition hosts rally and march for police accountability.

January 31, 2017: City dismisses all remaining COAB members over AMA Coalition's objection.

February 16, 2017: AMA Coalition issues a letter to City facilitator regarding logistics of new COAB.

February 21, 2017: AMA Coalition, City, DOJ, & PPA meet with City's facilitator to discuss logistics of new COAB.

February 27, 2017: AMA Coalition & DOJ meet to discuss logistics of new COAB.

March 6, 2017: City provides its additions to AMA Coalition & PPA's detailed joint proposal for a new COAB.

March 13, 2017: AMA Coalition, City, DOJ, & PPA meet with City's facilitator to discuss logistics of new COAB using City's proposal.

March 22, 2017: The AMA Coalition files a brief with the Ninth Circuit regarding the City's writ.

March 22, 2017: The City and DOJ agree to mediate the Ninth Circuit dispute.

April 3, 2017: The City and DOJ reject the AMA Coalition's request to be included in the mediation from the beginning.

April 25, 2017: **AMA Coalition hosts a community forum to present the COCL's report to the community in the COAB's absence.**

May 3, 2017: AMA Coalition sends a letter to the City asking for status of City's proposal.

May 12, 2017: Ninth Circuit Mediation session held without AMA Coalition.

May 18, 2017: Ninth Circuit Mediation session held without AMA Coalition.

June 2, 2017: Ninth Circuit Mediation session held without AMA Coalition.

June 14, 2017: **AMA Coalition hosts a community forum to present the COCL's report to the community in the COAB's absence.**

June 23, 2017: Ninth Circuit Mediation session held without AMA Coalition.

July 14, 2017 Ninth Circuit Mediation session, this time held with AMA Coalition.

As emphasized above, once the COCL ceased the oversight portion of its contractual duties, the AMA Coalition held two community forums to provide information to the community and to solicit input from community members regarding the Settlement Agreement.

Moreover, the AMA Coalition held a March for Justice and Equality, with the theme of "Advancing Justice and Equality for All Through the Strength to Love" on January 28, 2017, commemorating the anniversary of death of Aaron Campbell. The AMA Coalition estimates 3,000 people attended the march; the speakers and participants encompassed a broad diversity of community members from various religious, ethnic, racial, and cultural backgrounds. This event highlighted the community's commitment to justice and peace, and its resolve to remain engaged on these critical issues.

The AMA Coalition also notes that, despite the removal of the controversial 48-hour rule from the Collective Bargaining Agreement between the City and the PPA in October of 2016, it has recently come to light that the Multnomah County District Attorney's office issued an opinion in March of 2017 that officers involved in deadly force incidents may not be required to

write reports or give statements in an administrative investigation until after conclusion of the criminal investigation. The AMA Coalition was only made aware of this change because a steering committee member carefully reviewed the Portland Police Bureau's draft Use of Force and Post-Deadly Force policies and noticed a proposed policy allowing officers who use deadly force to forgo writing their reports until after a criminal investigation. The AMA Coalition notes that criminal investigations usually take at least three weeks, ten times longer than the previously carved-out "48-hour" rule, which the City bargained at great expense to remove from its labor contract with the PPA. As such, the AMA Coalition issued a press release, attached hereto as Attachment 2, objecting to this policy revision, and calling for public input on these very important issues. The City has denied the community's request for a public hearing on this issue. *See*

http://www.oregonlive.com/portland/index.ssf/2017/07/portlands_mayor_pressing_for_a.html.

Finally, the AMA Coalition notes the significant turnover of attorneys within the City and DOJ related to this case, and Mayor Wheeler is now the third Mayor to serve during the creation and implementation of the Settlement Agreement. The AMA Coalition has been a consistent community voice during this process, has continued to hold monthly meetings on its work, and has provided valuable contributions and leadership on many challenging issues. The Coalition remains committed to bringing a community voice to this very important process.

II. AMA Coalition's Best Estimate on a Ninth Circuit Ruling

The Court has requested the parties' best estimate on when to expect a ruling from the Ninth Circuit on the City's writ of mandamus. As this Court is aware, the AMA Coalition filed a brief opposing the writ on March 22, 2017. *See* Attachment 1. Shortly thereafter, the Ninth Circuit mediation process began, which placed all briefing and consideration on hold. At this

point, the AMA Coalition has no good estimate of when to expect a ruling, but hopes that if the mediation process is not successful in resolving the question of this Court's authority to hold more than one status conference per year, the Ninth Circuit would issue a ruling in short order, properly disposing of the writ.

DATED: July 19, 2017

Respectfully Submitted,

s/ J. Ashlee Albies

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s/ Kristen Chambers

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